

FILE COPY

Office-Supreme Court, U.S.

FILED

NOV 28 1960

JAMES R. BROWNING, Clerk

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1960

No. 155

MICHIGAN NATIONAL BANK, a banking association organized under the laws of the United States,

Appellant,

NATIONAL BANK OF WYANDOTTE, THE FIRST NATIONAL BANK (THREE RIVERS, MICHIGAN), COMMERCIAL NATIONAL BANK OF IRON MOUNTAIN, THE NATIONAL BANK OF JACKSON, and THE FIRST NATIONAL BANK AND TRUST COMPANY OF KALAMAZOO, banking associations organized under the laws of the United States,

Intervening Plaintiffs,

vs.

STATE OF MICHIGAN, DEPARTMENT OF REVENUE OF THE STATE OF MICHIGAN, and LOUIS M. NIMS, STATE COMMISSIONER OF REVENUE,

Appellees.

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF MICHIGAN

OBJECTIONS OF THE STATE OF MICHIGAN TO MOTION OF FOURTEEN NATIONAL BANKS IN PENNSYLVANIA FOR LEAVE TO FILE A BRIEF AS AMICI CURIAE

PAUL L. ADAMS,
ATTORNEY GENERAL,
STATE OF MICHIGAN

Samuel J. Torina

Solicitor General

William D. Dexter

Assistant Attorney General

For Appellees

Business Address:

The Capitol

Lansing, Michigan

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1960

No. 155

MICHIGAN NATIONAL BANK, a banking association organized under the laws of the United States,

Appellant,

NATIONAL BANK OF WYANDOTTE, THE FIRST NATIONAL BANK (THREE RIVERS, MICHIGAN), COMMERCIAL NATIONAL BANK OF IRON MOUNTAIN, THE NATIONAL BANK OF JACKSON, and THE FIRST NATIONAL BANK AND TRUST COMPANY OF KALAMAZOO, banking associations organized under the laws of the United States,

Intervening Plaintiffs,

vs.

STATE OF MICHIGAN, DEPARTMENT OF REVENUE OF THE STATE OF MICHIGAN, and LOUIS M. NIMS, STATE COMMISSIONER OF REVENUE,

Appellees.

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF MICHIGAN

OBJECTIONS OF THE STATE OF MICHIGAN TO MOTION OF FOURTEEN NATIONAL BANKS IN PENNSYLVANIA FOR LEAVE TO FILE A BRIEF AS AMICI CURIAE

Pursuant to Rule 42 of the Revised Rules of the Supreme Court of the United States, appellees move that the Motion of Fourteen National Banks in Pennsylvania for Leave to File a Brief as Amici Curiae [hereinafter referred to as the "Motion"] be denied for the following reasons, to wit:

1. As stated on page 7 of appellees' Motion to Dismiss

or to Affirm, heretofore filed in this cause, the above-captioned matter involves:

"Is Act 9, Michigan Public Acts of 1953, [hereinafter referred to as Act 9]^[1] which imposed for the year 1952 a tax of 5½ mills on national bank shares, invalid under § 5219^[2] because the Michigan legislature has not treated a savings share account of a savings and loan association as being equivalent to a share of national bank stock, when the national bank loans a portion of its deposit money on residential properties and the savings and loan associations employ their mutual share account moneys for the same general purpose?"

2. The Pennsylvania case referred to in the Motion^[3] could not possibly involve any issues in common with this cause, since none of the banks or the alleged competing individuals and financial institutions are subject to any taxation whatsoever by the State of Michigan, nor do they carry on any alleged competing activities within the State of Michigan.

3. The nature of the interest, if any, of the fourteen national banks in Pennsylvania is remote, indirect, and

[1]

Michigan Compiled Laws § 205.132a; Michigan Statutes Annotated '59 Cumulative Supplement (Henderson) § 7.536(2a).

[2]

12 U.S.C., Section 548; 13 Stat. 111, as amended by Stat. 34; 42 Stat. 1499; and 44 Stat. 223.

[3]

Mellon National Bank and Trust Company, et al. [the Fourteen National Banks of Pennsylvania] v. Charles M. Dougherty, Secretary of Revenue, in the Court of Common Pleas of Dauphin County, Pennsylvania, Equity No. 2395, No. 25, Commonwealth Docket, 1960.

not germane; thus, their involvement in this case, as *amici curiae*, would burden the State of Michigan and this Court with extraneous and unnecessary argument and would tend to confuse and distort the legal issues pending between the parties to this cause, without any foreseeable benefit.

4. Any involvement in this cause of the fourteen national banks in Pennsylvania, as *amici curiae*, will undoubtedly require the additional involvement of the Attorney General of Pennsylvania, as *amicus curiae*, thus tending to convert this cause into a review by this Court — prior to trial and review in the Pennsylvania courts — of the issues sought to be adjudicated there by the fourteen national banks in Pennsylvania and the Attorney General of Pennsylvania.

5. An examination of the Statement as to Jurisdiction, the Motion to Dismiss or to Affirm, the Brief of Appellant Opposing Appellees' Motion to Dismiss or to Affirm, and the briefs of the respective parties in this cause filed in the Supreme Court of Michigan, clearly demonstrates that the parties are competent to and have adequately presented, to the extent material in this cause, the legal arguments referred to on pages 4 and 5 of the Motion [sub-paragraphs enumerated (a), (b), and (c) of paragraph 8], and for this reason the fourteen national banks in Pennsylvania have not brought themselves within the requirements of paragraph enumerated 3 of Rule 14 of the Revised Rules of this Court.

The appellees in this cause have withheld their consent to the filing of a brief as *amici curiae* of the fourteen national banks of Pennsylvania for the above reasons.

Wherefore, it is respectfully requested that this Court deny the Motion of Fourteen National Banks in Pennsyl-

4

vania for Leave to File a Brief as Amici Curiae in this cause.

Respectfully submitted,

PAUL L. ADAMS,
ATTORNEY GENERAL,
STATE OF MICHIGAN

Samuel J. Torina
Solicitor General

William D. Dexter
Assistant Attorney General
For Appellees

Business Address:
The Capitol
Lansing, Michigan

CERTIFICATE OF SERVICE

I hereby certify that copies of the aforesaid Objections to Motion of Fourteen National Banks in Pennsylvania for Leave to File a Brief as Amici Curiae have been served, by depositing the same in the United States mails, with

first class air mail postage prepaid, upon the following
counsel:

THOMAS G. LONG
VICTOR W. KLEIN
PHILIP T. VAN ZILE, JR.
HAROLD A. RUEMENAPP
1881 First National Building
Detroit 26, Michigan
Attorneys for Appellant and
Intervening Plaintiffs

RALPH H. DEMMLER
JOSEPH G. ROBINSON
CARL F. CHRONISTER
A. S. HOLLINGER
747 Union Trust Building
Pittsburgh, Pennsylvania

THOMAS V. LEFEVRE
2107 Fidelity-Philadelphia Trust
Building
Philadelphia, Pennsylvania

THOMAS L. WENTLING
1404 First National Bank Building
Pittsburgh, Pennsylvania

W. WILSON WHITE
19th Floor, Land Title Building
Philadelphia, Pennsylvania
Attorneys for the Pennsylvania
Banks

On this ____ day of
November, A.D. 1960.

William D. Dexter
Assistant Attorney General